

Dangerousness
Lethality **A**ssessment **G**uide

D-LAG

Recognize
**Highly
Dangerous
Potentially
Lethal**

**Behaviors of Domestic Violence
Offenders**

A research-based guide for systems interacting with
families experiencing domestic violence.

Acknowledgements

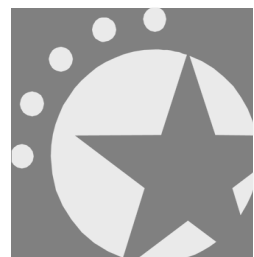
This guide was developed in collaboration with the West Virginia “Risk Assessment in Criminal and Civil Systems” (RACCS) Committee of the West Virginia Coalition Against Domestic Violence.

The RACCS Committee includes the West Virginia Division of Justice and Community Services, the Supreme Court of Appeals of West Virginia Administrative Office, the West Virginia Coalition Against Domestic Violence, the West Virginia Prosecuting Attorneys Institute, the West Virginia State Police, the Foundation for Rape Information and Services, the West Virginia Association of Chiefs of Police, Morgantown Police Department, Putnam County Sheriff’s Department, Lewisburg Police Department, Ohio County Prosecutor’s Office, Monongalia County Prosecutor’s Office, Branches Domestic Violence Program, SAFE, Inc., Family Refuge Center, Rape and Domestic Violence Information Center, Office of the Chief Medical Examiner, Cabell County Family Court, Cabell County Day Report Center, and Putnam County Batterer Intervention and Prevention Program.

Special thanks to the many professionals participating in the training and feedback sessions to help ground these recommendations in realistic model practice.



This publication was made possible by Grant Number 2017-WE-AX-0029 from the Office on Violence Against Women, U.S. Department of Justice. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Justice.



Dangerousness **L**ethality **A**ssessment **G**uide

The escalation of domestic violence to a highly dangerous/potentially lethal level follows a pattern with identifiable indicators¹.

If it is identifiable, it is predictable.

This guide will help professionals move through the following four steps in assessing domestic violence perpetrators for highly dangerous/potentially lethal behaviors and provide an effective response that heightens both safety measures for victims and accountability for highly dangerous/potentially lethal perpetrators:

Why should we assess for indicators of highly dangerous/potentially lethal indicators in domestic violence cases?

A consistent, research based process will:

- Provide a more accurate basis for effective safety planning with victims and accountability for perpetrators;
- Alleviate potentially inaccurate assumptions about dangerousness and lethality;
- Provide a process for communicating potentially dangerous indicators across systems;
- Help professionals gather critical information and put individual incidents of violence into context to make decisions about how to respond; and
- Can SAVE LIVES.

¹These indicators are validated by a number of studies. See Campbell, Jacquelyn, et al, "Intimate Partner Violence Risk Assessment Validations Study: The RAVE Study Practitioner Summary and Recommendations: Validation of Tools for Assessing Risk from Violence Intimate partners", National Institute of Justice (December, 2005); Heckert and Gondolf, "Battered Women's Perceptions of Risk Versus Risk Factors and Instruments in Predicting Repeat Reassault", Journal of Interpersonal Violence Vol 19, No 7 (July 2004).

Before assessing for indicators, it is important to understand the nature and extent of the domestic violence. While the legal definition of domestic violence meets a standard defined in WV statutes, families may experience behaviors that is contextually different and broader than the legal definition. Researchers have found that behaviors typically classified as domestic violence can look like:

Coercive controlling violence—include patterned behaviors such as physical, sexual, psychological/emotional and financial abuse, intimidation, threats, isolation, using children, using privilege, and minimization. The person using this type of violence has power over others in the family and operates from a belief that they are entitled to use such tactics of control.

Resistive violence—is produced and shaped by coercive controlling violence. Victims of coercive controlling violence resist or “fight back” in self defense and/or use passive violence or retaliatory violence.

Non-coercive controlling violence—is violence between intimate partners or family members that does not include a pattern of behaviors where one person controls or has power over other members of the family.

“In the (intimate partner) femicide study, the majority of victims or perpetrators (up to 83%) or both had contact with criminal justice, victim assistance and/or health care agencies in the year prior to the homicide.

(Campbell, J., PhD, R.N., F.A.A.N., Johns Hopkins University, *Intimate Partner Homicide: Review and Implications of Research and Policy*)

Considerations When Assessing Indicators:

- **Lack of indicators does not guarantee a victim is safe.**
- **Expert judgment should guide intervention when danger is perceived.**
- **Indicators should never be used to limit services.**
- **Understanding indicators is an ongoing process—not a one time assessment.**
- **Consider victim protective strategies as well as danger indicators.**

Dangerousness **L**ethality **A**ssessment **G**uide

The following four steps will guide professionals through a process for responding to domestic violence cases where highly dangerous, potentially lethal behaviors are indicated.

1

Understand the nature and extent of the domestic violence.

Prior training on recognizing the differing contexts of domestic violence is critical in assessing the impact on families. Differentiating context involves asking who is doing what to whom and with what impact:

- Coercive controlling violence;
- Resistive violence—produced and shaped by coercive control;
- Non-coercive controlling violence.

2

Identify highly dangerous/potentially lethal behaviors.

This guide will assist in gathering specific information and questions to determine if there are indicators for highly dangerous/potentially lethal behaviors. The best predictions of risk are a combination of victim's perception of risk and a risk evaluation instrument. (Heckert, D. A., & Gondolf, E. W. (2004). *Battered women's perceptions of risk versus risk factors and instruments in predicting repeat reassault*. *Journal of Interpersonal Violence* 19(7), 778-800.)

3

Provide a heightened response when indicators are present.

Provide immediate safety planning and/or referrals to increase the safety for victim(s). Increase measures to contain and reduce the dangerousness of offenders. A heightened response includes immediate actions using strongest measures possible.

4

Coordinate responses across systems.

Coordinating assessments and responses is best practice for achieving victim safety and containing perpetrator behaviors. Remember confidentiality procedures/limitations applicable to your discipline when sharing information. Confidentiality is connected to victim safety.

Law Enforcement Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

Once the scene is secure, determine the nature and extent of the domestic violence.

2

Gather information on indicators for highly dangerous/potentially lethal behaviors of perpetrator through offender, records, prior complaints, criminal history, dispatch, and Domestic Violence Registry and other relevant sources.

Gather information from victim (with informed consent of victim*) pursuant to Title §149-3, section 6.4.5:

“On all incidents of domestic violence requiring a report pursuant to §48-27-801, the law enforcement officer shall conduct a private interview with the victim utilizing “Dangerousness-Lethality Information form for Use by Law Enforcement Officers” included in the “Dangerous-Lethality Assessment Guide” as approved by the “Risk Assessment in Criminal and Civil Systems” committee and distributed by the West Virginia State Police. The “Dangerousness-Lethality Information form for Use by Law Enforcement Officers” shall be attached to the police incident report and any lethality indicators found should be summarized on the criminal complaint. Summarization on the complaint should include information determined to be pertinent by the officer through the course of their investigation.”

***Inform the victim that the form will be included in the police report that is part of their public record.**
(Keeping the victims informed about the process can aid in their personal safety planning.)

Law Enforcement Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options to:**

Increase Safety for Victim

Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety.

Discuss heightened safety options with victim:

- Immediate referral to a domestic violence advocate—if phone is available, and victim agrees, make contact with advocate on scene.
- Immediate transportation to a shelter (utilizing shelter intake protocol) or other safe place.
- Immediate referral for domestic violence protection order.

Conduct follow up investigation (§149-3-6.7.2).

Indicators for adult victims are also indicators for substantial risk of harm to children. Follow §149-3-6.4.9 through 6.4-13 for response to children.

Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

Immediate arrest with follow-up investigation—increase the depth of the investigation.

Consider supplemental or other appropriate charges for the crime when they apply (following §149-3-7):

- Malicious or unlawful wounding,
- Strangulation,
- Attempted murder,
- Wanton endangerment if using a firearm,
- Sexual assault/abuse if forced,
- Stalking,
- Child abuse,
- Child endangerment,
- Non-DV specific charges.

Arrest for violation of bond conditions (§62-1C-17c(d) -Affidavit Alleging Violation of Bond Condition).

Discuss with the offender the impact and dangerousness of behaviors on adult victim and children when appropriate.

4

System Collaboration

- Summarize highly dangerous/potentially lethal behaviors on criminal complaint.
- Verify bond conditions with clerk of court or on-duty magistrate
- Appear at pre-trial hearing.
- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make CPS or APS referral and document indicators on verbal/written report.
- Ensure prosecutor's office is aware of behaviors.
- Inform EMS if on scene of indicators to achieve better care.
- Refer to and follow up with community and system based advocates.

Advocate Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

When talking with potential victims of domestic violence, determine the nature and extent of the domestic violence.

2

Gather information on indicators for highly dangerous/potentially lethal behaviors of perpetrators.

Information can be gathered from victim, and other records if available (i.e. law enforcement report, arrest records, DVPO's, criminal backgrounds, etc.) When discussing indicators with victim, disclose limits of advocate confidentiality so victims can plan for their safety.

Maintain confidentiality of information obtained to the extent allowed by law:

- All Advocates are mandated reporters to child and adult protective services.
- System based advocates: inform victim that information obtained is not confidential but is shared with the system you represent (i.e. prosecutor, law enforcement, federal agency).
- Community based advocates: inform victim that information is confidential unless the victim signs a release or a court order is obtained for a release of records.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Advocate Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options** to:

Increase Safety for Victim

Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety. Indicators for adult victims are also indicators for substantial risk of harm to children.

Initiate immediate safety options with victim:

- Safe accommodations if offender is not incarcerated;
- Benefits and limitations of DVPO;
- Benefits and limitations of criminal bond conditions;
- Options if offender locates victim (i.e. at home, work, school, car, etc.).

Advocate with victim about immediate civil system protections (protection order process; child protection process—explain co-petitioning, battered parent adjudication, and aggravated circumstances).

Advocate with victim in the criminal justice system:

- Gather information on charges filed and bond conditions;
- Connect victim with prosecutor's office (victim advocate if available) to discuss safety concerns related to prosecution.

Discuss follow up with victim—including accompaniment with law enforcement follow-up.

Inform victim of the Address Confidentiality Program of the WV Secretary of State's Office (Legislative Rule 153CSR37).

4

System Collaboration

- System based advocates (community based advocates with appropriate confidentiality releases): communicate safety concerns to law enforcement, prosecutor, federal agency for use in charging, sentencing, bond conditions.
- Encourage system assessment for highly dangerous/potentially lethal indicators.
- System based advocates (community based advocates with appropriate confidentiality releases): document information that could be evidence for forfeiture by wrong doing
- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/written report
- Refer to and follow up with other community and system based advocates.

Magistrate Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, observe for the nature and extent of the domestic violence.

The history and severity of the violence, likelihood of future injury, use of reasonable force acted in self defense and presence of highly dangerous/potentially lethal behaviors of will help to determine the predominant aggressor if both parties are using violence.

2

Observe for indicators of highly dangerous/potentially lethal behaviors in complaint and other evidence if available (i.e. law enforcement report, arrest records, criminal backgrounds, etc.).

If the officer is present, ask what they observed.

In EPO proceedings, gather information from victim. Gathering information from a petitioner—when possible—is best practice for obtaining these indicators and getting a more accurate assessment of lethality. Do not ask the victim to say in front of offender that they are afraid.

Victim behavior may not appear appropriate or “normal” based on the trauma they have experienced. Each victim responds differently. While gathering information from the victim is helpful in determining the presence of indicators, some victims may be afraid or further traumatized when being interviewed or questioned.

Never refuse to allow anyone to file an EPO petition (§48-27-304(b)).

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Magistrate Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options to:**

Increase Safety for Victim

When the victim is present (EPO proceedings or if they appear in criminal proceedings):

- Review the petition and listen to the victim for indicators.
- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety.
- Indicators for adult victims are also indicators for substantial risk of harm to children.
- Discuss Immediate referral to a domestic violence advocate and advocate at the prosecutor's office (or prosecutor in the absence of prosecutor based advocate).

Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

When setting bond consider:

- Cross reference DV registry when arraigned for EPO or DVPO for outstanding service.
- Setting high property or cash bond—not PR .
- Setting bond conditions of no contact with victim (§62-1C-17c) and review hearings (*Rules of Criminal Procedure for Magistrate Courts* 5(f)(4).
- Setting home confinement with GPS - confirm where perpetrator will be living separate from victim.

When sentencing consider:

- Appropriate sentence considering potential for lethality such as:
 - Jail time;
 - Home confinement (not in home with victim- §62-11-B-6(d));
 - Home confinement with GPS;
 - Suspended jail with day report or community corrections.
- Plea agreements in cases with highly dangerous/potentially lethal indicators are discouraged
- Pretrial diversion not permitted in any DV case - §61-11-22(d and e).

EPO proceedings:

- Locate and seize all firearms listed on EPO petition.
- Check DV registry and criminal history before issuing 3rd party transfer of firearms.

4

System Collaboration

- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/written report.
- Refer to advocates. Providing time and safe space before/after proceedings for advocates to talk with victims can improve safety.
- Communicate bond conditions to law enforcement.
- Flag EPO for expedited service and officer safety.
- Understand how other systems assess for indicators.

Family Court Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, determine the nature and extent of the domestic violence.

2

Observe for indicators for highly dangerous/potentially lethal behavior from victim, and other evidence available—pursuant to Chapter §48-27-505 (i.e. law enforcement report, arrest records, DVPO’s, criminal history, etc.).

Case coordinators can ask about indicators when screening for domestic violence in mediation cases. If indicators are found during this screening, Case Coordinators can refer victims to safe services, but cannot give information about indicators in ex-parte communications with the judge.

Encourage attorneys to provide information on the indicators to the court.

The level and type of risk can change over time. The most dangerous time period is the days to months after the offender discovers that the victim is making attempts to leave or terminate the relationship or has disclosed the abuse to others—especially in the legal system.

Victim behavior may not appear appropriate or “normal” based on the trauma they have experienced. Each victim responds differently. While gathering information from the victim is helpful in determining the presence of indicators, some victims may be afraid or further traumatized when being interviewed or questioned.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Family Court Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options to:**

Increase Safety for Victim

- Do not elicit safety or risk information from victims in open court—safety concerns can affect the victim's ability to provide accurate information in open court.
- Identify highly dangerous, potentially lethal indicators and express heightened concern for victim and child (ren) safety -Indicators for adult victims are also indicators for substantial risk of harm to children.
- Discuss Immediate referral to a domestic violence advocate.
- Create safe and separate waiting spaces.
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

DVPO Proceedings:

- Conduct compliance hearings to ensure perpetrator is abiding by order and firearms prohibitions are being followed.
- Conduct hearing (to assess safety) before dismissing DVPO (when petitioner appears for hearing).
- Attach petition for return of firearms to the final order in the civil domestic violence case.

Offenders using highly dangerous/potentially lethality behaviors create risk of harm to children.

Parenting time proceedings:

- Order supervised visitation.
- Use third party transportation for visitation.
- Use visitation and exchange centers.
- Order no visitation.

The history and severity of the violence will help to determine the predominant aggressor (Title §149-3, section 7.5) if both parties are using violence. However, the victim of a predominant aggressor may be the respondent in some cases.

4

System Collaboration

- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/ written report.
- Refer to community and system based advocates. Providing time and safe space before/after proceedings for advocates to talk with victims can improve safety.
- Consider ordering law enforcement to provide safety check on petitioner if they do not appear at DVPO proceedings.
- Understand how other systems assess for indicators.

Circuit Court Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, determine the nature and extent of the domestic violence.

2

Observe for indicators for highly dangerous/potentially lethal behavior from victim, and other records if available (i.e. law enforcement report, arrest records, DVPO’s, criminal backgrounds, etc.).

Information on behaviors that potentially indicate lethality can inform judicial discretion.

Encourage attorneys, practitioners, and officers of the court to provide information on lethality indicators to the court.

The level and type of risk can change over time. The most dangerous time period is the days to months after the offender discovers that the victim is making attempts to leave or terminate the relationship or has disclosed the abuse to others—especially in the legal system.

Victim behavior may not appear appropriate or “normal” based on the trauma they have experienced. Each victim responds differently. While gathering information from the victim is helpful in determining the presence of indicators, some victims may be afraid or further traumatized when being interviewed or questioned.

These materials represent a partial list of resources currently available when weighing risk factors and making lethality assessments. These resources could be used as a starting point for any analysis on this topic.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Circuit Court Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options to:**

Increase Safety for Victim

- Do not elicit safety or risk information from victims in open court.
- Identify highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children.
- Discuss Immediate referral to a domestic violence advocate
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

Child abuse and neglect proceedings:

- Highly dangerous/potentially lethal behaviors create substantial risk of harm to children that could rise to the level of aggravated circumstances.

Criminal proceedings:

- Reduction of the following crimes is discouraged:
 - Malicious or unlawful wounding,
 - Strangulation,
 - Attempted murder,
 - Wanton endangerment,
 - Sexual assault/abuse if forced,
 - Stalking,
 - Child abuse,
 - Child endangerment,
 - Non-DV specific charges.
- Bond reduction is not recommended—consider high property or cash bond.
- Pretrial diversion not permitted in any DV case -§61-11-22(d and e).
- Inquire about indicators in Probation reports.

4

System Collaboration

- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/ written report.
- Refer to community and system based advocates. Time and safe space before/ after proceedings for advocates to talk with victims can improve safety.
- Consider ordering law enforcement to provide safety check on petitioner if they do not appear at proceedings.
- Understand how other systems assess for indicators.

Prosecutor Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, determine the nature and extent of the domestic violence.

2

Gather information on indicators for highly dangerous potentially lethal behaviors of perpetrator (i.e. law enforcement report, arrest records, DVPO’s, criminal backgrounds, social media, jail phone records, etc.). When interviewing the victim, illicit specific information on these indicators.

Once information on lethality indicators is gathered, provide information to the court.

Prosecutors are in a unique position to increase safety of adult and child victims and decrease the dangerousness of offenders.

Victim behavior may not appear appropriate or “normal” based on the trauma they have experienced. Each victim responds differently. While gathering information from the victim is helpful in determining the presence of indicators, some victims may be afraid or further traumatized when being interviewed or questioned.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Prosecutor Court Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options** to:

Increase Safety for Victim

Make contact with the victim as soon as possible to:

- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children.
- Explain the court process to victim emphasizing how the process has been influenced by the presence of the highly dangerous/potentially lethal indicators of offender.
- Discuss impact of court process on victim safety.
- Discuss Immediate referral to a domestic violence advocate.
- Make victim aware of any bond conditions—and give a copy of the criminal bail agreement.
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

Child abuse and neglect proceedings:

- Inquire with CPS—if referral was made, consider filing Abuse/Neglect petition—consider co-petition and battered parent adjudication.
- Offenders using highly dangerous/potentially lethality behaviors create substantial risk of harm to children that could rise to the level of aggravated circumstances.

Criminal proceedings:

- Consider supplemental or other appropriate charges for the crime when they apply:
 - malicious or unlawful wounding,
 - strangulation,
 - Attempted murder,
 - wanton endangerment,
 - sexual assault/abuse if forced,
 - stalking,
 - child abuse,
 - Child endangerment,
 - Non-DV specific charges.
- Argue against bond reduction.
- File violation of bond conditions when indicated.
- When indicators are present, plea agreements are discouraged.
- Pretrial diversion not permitted in any DV case -§61-11-22(d and e).

4

System Collaboration

- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/written report.
- Refer to and follow up with community and system based advocates.
- Include highly dangerous/potentially lethal behaviors in any motion or arguments made before the court.
- Schedule with magistrates and circuit court judges to hold additional pretrial, bond and compliance hearings.
- Consider giving copies of relevant case information (discovery packet) to the victim for future proceedings
- Understand how other systems assess for indicators.

Child Protection Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, determine the nature and extent of the domestic violence.

2

Utilizing “Domestic Violence Toolkit for CPS Workers—Domestic Violence Indicator Guide,” observe for indicators for highly dangerous/potentially lethal behavior from interviews with child(ren), adult victim, collaterals and offender. Check other records if available (i.e. law enforcement report, arrest records, DVPO’s, criminal backgrounds, etc.).

Victim behavior may not appear appropriate or “normal” based on the trauma they have experienced. Each victim responds differently. While gathering information from the victim is helpful in determining the presence of indicators, some victims may be afraid or further traumatized when being interviewed or questioned.

Assessing protective capacity when lethality indicators are present must include adult victim survival strategies used to navigate the high level of threat posed by the offender. Offenders using highly dangerous/potentially lethal behaviors interfere with the adult victim’s ability to protect their children from their offender.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Child Protection Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options** to:

Increase Safety for Victim

- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety.
- Discuss heightened safety options with victim:
 - Immediate referral to a domestic violence advocate—if phone is available, and victim agrees, make contact with advocate on scene.
 - Immediate transportation to a shelter (utilizing shelter intake protocol) or other safe place.
 - Immediate referral for domestic violence protection order (per CPS Policy 4.34)
- Discuss civil child protection court options with victim including:
 - Co-petitioning;
 - Battered Parent Adjudication.
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

Child abuse and neglect proceedings:

- Offenders using highly dangerous/potentially lethality behaviors create substantial risk of harm to children that could rise to the level of aggravated circumstances.
- Include no-contact provisions in protection plans, case plans and court narratives.
- Immediately report any violations of protection plans, court orders, bond conditions and no-contact agreements to court.
- Utilize co-petitioning and battered parent adjudication (when applicable)
- Include offender re-location in court orders and enforce if offender attempts interferes with re-location agreements.

4

System Collaboration

- Ask referring agency if children or vulnerable adults are exposed to potentially lethal offender behaviors on intake or when making collateral contacts.
- Refer to community and system based advocates.
- Include advocates in civil court proceedings.
- Include indicators in communications with prosecutor, law enforcement and courts.
- Immediately Inform courts of any violations of protection, safety or improvement plans.
- Understand how other systems assess for indicators.

Victim Attorney/GAL Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, determine the nature and extent of the domestic violence.

2

Observe for indicators for highly dangerous/potentially lethal behavior from interviews with adult victim, and other records if available (i.e. law enforcement report, arrest records, DVPO’s, criminal backgrounds, etc.). GAL can access medical records, CPS records, education records and counseling reports.

Victim behavior may not appear appropriate or “normal” based on the trauma they have experienced. Each victim responds differently. While gathering information from the victim is helpful in determining the presence of indicators, some victims may be afraid or further traumatized when being interviewed or questioned.

The history and severity of the violence will help to determine the predominant aggressor (Title §149-3, section 7.5) if both parties are using violence. However, the victim of a predominant aggressor may be the defendant in some cases.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Victim Attorney/GAL Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options** to:

Increase Safety for Victim

Make contact with the victim as soon as possible to:

- Discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety - Indicators for adult victims are also indicators for substantial risk of harm to children.
- Explain the court process to victim emphasizing how the process has been influenced by the presence of the highly dangerous/potentially lethal indicators of offender.
- Discuss impact of court process on victim safety.
- Discuss Immediate referral to a domestic violence advocate.
- Assess impact of offender behavior on victim (s) - Adult and child(ren) - understand impact of trauma and survival tactics.
- Maintain protective orders in agreements.
- Argue to determine predominant aggressor (with cross petitions or victim is charged when defending him/herself).
- Discourage mediation.
- Appeal unfavorable orders.
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

Civil proceedings:

- Child abuse and Neglect proceedings: Offenders using highly dangerous/potentially lethality behaviors create substantial risk of harm to children that could rise to the level of aggravated circumstances.
- Advocate for compliance review hearings—Rule 24a.
- Cross examine GAL report.

Attorneys must take credible threats seriously and take appropriate actions.

4

System Collaboration

- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/written report.
- Include highly dangerous/potentially lethal behaviors in any motion or arguments made before the court.
- Refer to community and system based advocates.
- If victim contacts offender's attorney (public defender), refer to advocate and contact prosecutor.
- Balance judicial need for information and victim autonomy/safety.
- Understand how other systems assess for indicators.

Batterer Intervention Program Response

Researched indicators of highly dangerous/potentially lethal behaviors:

Possession, access and use of weapons and/or possession of weapons when prohibited

Direct threats to kill—anyone in the family, including self

Stalking behavior—following victim, leaving threatening/intimidating messages, electronic monitoring

Strangulation (“choking”) restriction of airway/blood flow

Intrusive coercive control—control most of daily activities, constant monitoring

Forced sex

Victim has left or is attempting to leave the relationship

Offender is unemployed

Victim has a child who is not the offender’s biological child

Violence is escalating

Substance abuse may exacerbate highly dangerous/potentially lethal behaviors

1

Who is doing what to whom and with what impact

In proceedings involving domestic violence, determine the nature and extent of the domestic violence.

2

Gather information on indicators for highly dangerous/potentially lethal behaviors of perpetrator. Gather information from offender or court referral.

Assess for indicators in offender interview (use interview guide as a “teachable moment” for how behaviors indicate potential lethality).

Be aware that collusion can further empower a person who batters.

The **presence** of these factors can indicate **elevated** risk of serious injury or lethality. The **absence** of these factors is not, however, evidence of the absence of risk of lethality.

Batterer Intervention Program Response

3

If indicators for highly dangerous, potentially lethal behaviors are present, **consider the following enhanced response options to:**

Increase Safety for Victim

- If contact with victim is appropriate—discuss the highly dangerous, potentially lethal indicators and express heightened concern for victim and child(ren) safety. Immediately refer to advocacy services.
- Discuss heightened safety options with referring court, day report or advocate—to inform victim of safety concerns.
- Indicators for adult victims are also indicators for substantial risk of harm to children. Include indicators in referrals to CPS.
- Know that to stay safe, some victims will use the Address Confidentiality Program out of the WV Secretary of State's Office (Legislative Rule 153CSR37).

Reduce Dangerousness of Offender

- Contact the referring court or court officer to inform of any offending behaviors or violation of court orders.
- Refer for mental health or substance abuse if co-occurring.
- Discuss “trigger” response options as an alternative to battering (conflict resolution approaches).
- Offenders using highly dangerous/potentially lethality behaviors create substantial risk of harm to children.

4

System Collaboration

- Communicate indicators to referring court or community and system based advocates to inform victim of indicators for safety planning.
- If children or vulnerable adults are exposed to potentially lethal offender behaviors, make referral to CPS or APS, and document indicators on verbal/written report.

Dangerousness-Lethality Information Form

For use by law enforcement officers

Once the scene is secure, gather past and present information on indicators for highly dangerous/potentially lethal behavior.

This form is for the officer to complete while interviewing the victim (Title §149-6.4.5).

Attach this form to the report and summarize information on the criminal complaint.

Inform the victim that the form will be included in the police report that is part of their public record. (Keeping the victims informed about the process can aid in their personal safety planning.)

Victim Interview:

Has he/she ever used a weapon against you?	Yes No Not answered
Has he/s ever threatened you with a weapon?	Yes No Not answered
Does he/she have a gun or can he/she get one easily?	Yes No Not answered
Has he/she threatened to kill you or your children?	Yes No Not answered
Do you think that he/she might try to kill you?	Yes No Not answered
Has he/she ever tried to kill him or herself?	Yes No Not answered
Has he/she ever tried to choke you?	Yes No Not answered
Does he/she follow or spy on you or leave threatening messages?	Yes No Not answered
Is he/she violently or constantly jealous or does he/she control most of your daily activities?	Yes No Not answered
Has he or she forced you to have sex when you did not wish to do so?	Yes No Not answered
Have you left him/her or separated after living together or being married?	Yes No Not answered
Is he/she unemployed?	Yes No Not answered

Continue on back

Dangerousness-Lethality Information Form For use by law enforcement officers

Do you have a child that he/she know is not his/hers?	Yes No Not answered
Have your concerns of his/her behavior increased in the past few months?	Yes No Not answered
Are you concerned about his/her history with drugs or alcohol?	Yes No Not answered
Is there anything else that worries you about your safety?	Yes No Not answered

Information on any highly dangerous/potentially lethal indicators known by officer from other sources:

Summary of any highly dangerous/potentially lethal behaviors if found (include on criminal complaint):

Dangerousness Lethality Assessment Guide

**A research-based guide for systems interacting with
families experiencing domestic violence.**